IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11798 of 2017

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Aariket Traders, a proprietary Concern having its office at B-16, Gate No. 2 Transport Nagar, Distt. Patna through its authorized Signatory Roshan Agarwal Son of Shri. Vinod Agarwal Resident of Flat No. H- 1 Ist Floor, B Block Sabmhavi Apartment Bhoothnath Road, P.O. and P.S. Agamkuan, District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial taxes, Bihar, Patna having its Office at Vikash Bhawan, Patna.
2. Assistant Commissioner of Commercial Taxes, South Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.V.Pathy, Advocate
For the Respondent/s : Mr. Vikash Kumar-SC11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-09-2017

Having heard learned counsel for the parties and on going through the facts of the case, we find that an *ex parte* order has been passed under Section 25(3) of the Bihar Value Added Tax Act, 2005 and the petitioner has been proceeded with without hearing him in the matter. Even though, Sri Vikash Kumar, learned Standing Counsel-11, tried to justify the act of the assessing officer in proceeding *ex parte* with the order by contending that notices were sent by e-mail and telephonic communications were also made to the assessee, we are of the considered view that the interest of justice requires that one opportunity should be given to the petitioner to justify his action before the assessing officer and, therefore, we dispose of this matter with the following directions:

The impugned orders are quashed. Petitioner shall appear before the assessing officer along with certified copy of this order on 10th of October, 2017 at 11 A.M. along with all his objections, documents and material in support of the notice issued and thereafter the authority shall proceed to pass assessment order afresh under Section 25(3) of the Act in accordance to law.

Needless to emphasise that this Court has not gone into any merit of the matter and has only remanded the matter back to the assessing officer in the interest of justice granting one opportunity to the petitioner.

With the aforesaid, the matter stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.09.2017
Transmission Date	NA